Property Lost, Captured, or Destroyed by the Enemy 1812-14

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REPORT

Of the select committee, appointed on the 8th ult. to inquire into the expediency of amending the act of the 3d March, 1817, &c. &c.; accompanied with a bill further to amend the act of the 9th April, 1816, authorizing payment for property lost, captured, or destroyed, by the enemy, during the late war.

APRIL 5, 1824.

Read, and, with the bill, committed to a committee of the whole House to-morrow.

DECEMBER 17, 1824.

Re-printed by order of the House of Representatives.

The select committee, appointed to inquire what further legislative provisions are fit and necessary to carry into effect the provisions of the act of Congress, passed March 3d, 1817, entitled "An act to amend the act, authorizing the payment for property lost, captured, or destroyed, by the enemy, while in the military service of the United States, and for other purposes, passed the 9th day of April, 1816," respectfully

REPORT:

That, on examining the act of April, 1816, which passed at the session of Congress next ensuing the ratification of the treaty of peace with Great Britain, they discover that its provisions obviously designed to afford to the citizens of the United States, without the further interposition of Congress, an indemnification for damages which they had sustained in the progress of the war, either by the use or consumption of their property by the agents of the government, or by the capture or destruction of it by the enemy, in consequence of any public character that had been imparted to it by the Government. As it is understood by the committee that full effect has been given to that part of the law which embraces claims for property taken, used, or consumed, for the service of the United States, it will be unnecessary in this report again to refer to it. But, as a serious difference of opinion has arisen, in construing the other provisions of the law, the committee think it proper to present them distinctly to the House.

The ninth section of the act referred to, provides, "That any per-
"son, who, in the time aforesaid, [that is, during the war,] has sus-
"tained damage by the destruction of his, or her, house or building,
"by the enemy, while the same was occupied as a military deposite,
"under the authority of an officer or agent of the United States,
"shall be allowed and paid the amount of such damage: *Provided*,
"it shall appear, that such occupation was the cause of its destruc-
"tion."

The eleventh section of the act authorized the President of the United States, by and with the advice and consent of the Senate, to appoint a commissioner, whose duty it should be to examine and decide upon all cases arising under the act. The tenth and fourteenth sections provide, that, on the adjudication by said commissioner in favor of any claimant, the amount adjudged to him should be paid at the Treasury of the United States, on the presentation of a certified copy of the judgment rendered by said commissioner.

The committee believe it to have been well known, before, and at the time of passing this law, that the inhabitants of the Niagara frontier, in the state of New York, and others residing on the margin of the Chesapeake, and in the vicinity of New Orleans, who had suffered extensive and ruinous losses, in the destruction of their houses by the enemy, were urging their claims for an indemnification, upon Congress; and, as it was equally notorious that one, at least, of the motives which had been assigned by the enemy, in palliation of his desolating conduct, was, that a military character had been given to the property, by the Government of the United States, little doubt exists with your committee, that Congress contemplated, by the law, to extend relief to these unfortunate sufferers. But, whatever doubt has since been created, of the design of Congress in this respect, none, it seems, was, at that time, entertained by the claimants: for, it appears, that, as soon as effect was given to the law, by an appointment of the commissioner, almost every claim of this nature was immediately presented to him for adjudication.

The commissioner, also, whose local situation qualified him to judge of the objects of the law, had it been necessary to have sought, from the intention of the legislature, any other objects than those it had plainly expressed by its act, after a faithful and laborious investigation of the cases arising from the destruction of the enemy on the Niagara frontier, and in the vicinity of the Chesapeake, decided, that they were generally embraced by the law. But, while proceeding, in pursuance of this opinion, to examine and to adjudge upon the individual claims, and after the allowance and payment of some of them, his progress was unexpectedly arrested, by an order from the President of the United States to suspend further adjudications until the approaching session of Congress. Of the motive which induced this interposition of the President, to interrupt the execution of a public law, the committee have not been informed, nor is it, perhaps, material for them to inquire.

At the session which ensued, the provisions of the laws of 1816 were brought distinctly before Congress, and the correctness of the decisions of the commissioner freely examined. The deliberations of the legislature resulted in passing another law, amending the former, and containing provisions, designed, as the committee think, more clearly to embrace the claims to which reference has been made, than the first act was supposed to do. This law, passed as it was, after a full examination of the merits of these claims, and with a knowledge of the light in which they had been viewed by the commissioner, and in despite of efforts made to repeal the former law, must be regarded, in the opinion of the Committee, as a distinct expression of the national will, to confirm and to enlarge the principles of the preceding act. To support this opinion, the Committee refer the House to the first section of the act alluded to, passed March 3, 1817, which provides, that the ninth section of the law of 1816, "shall be construed "to extend only to houses or other buildings, occupied by an order "of an officer or agent of the United States, as a place of deposite "for military or naval stores, *or as barracks* for the military forces "of the United States."

On a comparison of these two laws, it will be perceived that, while the first limits the occupation to a military deposite, the latter extends it to barracks. And as one of the most plausible objections that had been urged against the decisions of the commissioner was, that the buildings on the Niagara frontier, generally, were not occupied as places of deposite, but as barracks, there is every reason to presume, that the act of 1817 was designed to afford more certain and general indemnification than could be obtained under the former law.

But although its provisions were, in this respect, evidently enlarged, the powers of the commissioner were so far restrained by it, as to limit his duty to an investigation of the cases, and a report of the facts to Congress. But, as this restriction was supposed to have been prodoced solely by an apprehension, that excessive estimates of property had been made, and with no intention whatever, of subsequently changing or controlling the principle of remuneration, thus plainly recognized, the claimants, particularly those on the Niagara frontier, felt that, at last, they were within reach of the relief they had so earnestly sought, and which their suffering condition so strongly demanded. Believing that no other impediment existed to the payment of their claims, but one produced by the suspicion, that the amount of them had been improperly exaggerated, they, with the advice of the commissioner, adopted such measures for their re examination and ascertainment, as were deemed most effectual to remove it. At their request and expense, and in pursuance of the law, three new commissioners (two of whom were members of the House of Representatives,) and an agent for the United States, were appointed, who proceeded to the frontier, and, after a minute and faithful examination of each individual case, made a report of the facts they had ascertained. This elaborate report, which was also approved and signed by the agent, in behalf of the Government, although it re-

duces considerably the amount of the claims, establishes, that they were generally embraced by the spirit and letter of the laws that had been passed.

At the session which followed, the Committee of Claims of the House of Representatives, to which the report was referred, recommended a bill for the relief of the claimants, which was sanctioned by a committee of the whole House, but which, subsequently, in consequence of the addition of extrinsic matter to its provisions, or for some other reason, not known to the committee, was not enacted into a law. Since that period, repeated applications have been made to Congress by the claimants, both individually and collectively; and although one branch of the legislature has repeatedly recognized the application of the principles of the law to their cases, the committee of the other branch, to which they have been referred, has uniformly denied it.

After this brief history of the legislation on the subject, in order to determine "what further legislative provisions are fit and necessary," it becomes proper for the committee to present their views of the nature of the claims in controversy, and of the extent of the obligation imposed on the Government for their payment, as well by reason of its past legislation, as by those principles of justice and public policy, which should regulate its proceedings.

The committee is aware that it may be difficult to define, with precision, the nature of an obligation imposed on a Government, in consequence of its engagements to individuals. All Governments, particularly those of a despotic character, have not consented, in all cases, to be bound by their own stipulations, to the same extent as they apply the rule to contracts between individuals. But, where a Government like ours, whose fundamental principle it is to render equal and exact justice to all, by the deliberate act of its highest functionaries, contracts obligations to individuals, no enlightened legislator, it is presumed, will contend, that they are not to be held sacred and inviolable, without, at least, their fulfilment shall prove extensively and vitally injurious to the country. The existence of misapprehension, merely of the extent to which the obligation can be legitimately carried, supposing the fact to be so, never can be considered a sufficient reason to justify its violation. By referring to the laws in question, it will be discovered that an engagement is made by the Government, to indemnify a class of citizens for losses they had sustained, in consequence of its acts. A judge is appointed to decide between the Government and the citizen, whose decision, it is obviously intended by the law, shall be conclusive upon both. After an adjudication by this officer, founded upon a fair and full examination of the facts, the committee think the obligation created by the law becomes so defined, that no slight cause will warrant its violation. Admitting as true, what the committee have not discovered to be so, that a construction was given to the law, not intended by its enactment, yet, as the expositor of it was the officer created for this purpose, by the law itself, his decisions, invalidated by no imputations of bad faith,

are to be regarded as so far conclusive at least, that the most satisfactory evidence shall be required, to establish their incorrectness.

The researches of the committee, so far from affording them this evidence, have resulted in an opinion of the correctness of the commissioner's decisions, in those cases which they have had opportunity to examine. In order to afford to the House the means of deciding upon the justness of the conclusion to which the committee have arrived, they deem it proper to submit a summary statement of facts, which have been established, relative to the losses on the Niagara frontier, which embrace the most numerous and extensive class of the claims.

Immediately upon the declaration of the late war, the Government, with a design of carrying on offensive operations against the province of Upper Canada, occupied the American side of the Niagara, as the most favorable position, whence its attacks upon that country could be made. From the commencement of the war, until the destruction of the frontier, large bodies of troops, in the service of the United States, averaging probably from 2000 to 3000 men, were quartered along the line; and, as no other provision had been made by the Government, the private buildings of the inhabitants were necessarily converted to public uses. So general was this occupation, as is established by satisfactory evidence, that there was not a single building, on the whole extent of this frontier, which was fitted, either for a storehouse, hospital, quarters for officers, or barracks for men, which was not, during some portion of this period, used principally, if not exclusively, for one or more of these purposes. This universal occupation, of course, was not continued throughout the whole period, but varied with the various fluctuations of the army, from one part of the line to another, occasioned by the movements of the enemy, or the military objects of our own Government. At the close of the campaign of 1812, after attempts at offensive operations on the part of our generals had ceased, an American army of near 5000 men, was found in an inhospitable climate, at an inclement season, without quarters, and assailed by a deadly disease. For the preservation of the lives of the men, it became indispensable that the buildings of the citizens should be occupied by the troops, and, during that winter, the whole frontier assumed the appearance of a military cantonment. In the campaign succeeding, the army advanced into the enemy's territory, and, after capturing, occupied Fort George, until towards the close of the campaign. In the mean time, the military character of the frontier, although in degree lessened, was far from being entirely suspended, as the sick and wounded of the army, with their attendants and several guards of infantry, and a principal part of the cavalry, were still quartered on this side of the river, occupying, to a greater or less extent, the buildings of many individuals. In the Fall, when the regular troops were ordered from the frontier, and its defence, together with that of our acquisitions on the Canadian side, entrusted to a small corps of volunteers, and to a body of draughted militia, whose term of service was expiring, the American general in command, after burning the village of Newark,

in the vicinity of Fort George, pursuant to the suggestion of the Secretary of War, retreated from the British to the American side of the river, and again quartered his troops in the houses of the inhabitants.

At this period, and previous large quantities of arms, provisions, clothing, and ammunition, belonging to the United States, and destined to the supply of the army, were deposited in private buildings, at different places, on the frontier. At this time, the inhabitants of Buffalo, sensible of the defenceless condition to which they were reduced, by the act of their Government, and aware, not only of the exasperated feelings which had been wantonly provoked, by the destruction of Newark, but also of the opinion entertained by the British officers, that their buildings were indispensable to shelter and preserve the American forces on the frontier during the winter, earnestly requested the American general not to increase the danger to which they were exposed, by quartering his troops in their houses, and thereby affording to the enemy an unequivocal evidence of their public and military character. But, as no alternative was left to this officer, but either to shelter his troops in the houses of the citizens, or entirely to abandon the frontier, and a large amount of public property then upon it, to the power of the enemy, he proceeded to quarter his troops in their buildings, after making to them the strongest assurances in his power to give, that the Government would indemnify them for the losses they should sustain. Intervening this period, and that of the capture of the place, on the 30th of December, large bodies of militia, from the neighboring counties, called into the service of the United States, making a force of more than 2,500 men, arrived on the frontier, and, by the express order of the commanding general, took possession of the houses of the inhabitants, occupying them, in some instances, in common with, and in others, in total exclusion of, their owners. This occupation continued up to the very day of the destruction, presenting to the view of the invading army the appearance of a military camp.

Supposing the evidence, on the part of the claimants, to rest here, the committee believe the opinion they have expressed, that the destruction of the buildings on this frontier was caused by their occupation by the Government for military purposes, to be satisfactorily supported. But, in addition to this evidence, and to the fact that several of the buildings actually were blown up by the powder of the Government, which the enemy found deposited in them, the claimants have procured from British officers, engaged in the expedition, as satisfactory proof as the nature of the fact admits, of the motives and causes which induced this catastrophe. By examining this evidence, which is established by the concurring testimony of many disinterested and respectable witnesses, it will be found, that the object of the invasion, and of the destruction which followed, was the dislodgement of the American troops from the frontier—an object certain to be accomplished, by destroying the houses of the

inhabitants, on which alone, as was well known, they could depend for barracks and places of deposite.

The committee do not deny that the unjustifiable aggression which had been recently committed by our troops, naturally furnished an incentive to the invasion of the enemy; but, upon a careful examination of the evidence produced, it does appear, as well by the declarations of the British officers, made previous, and subsequent to, the expedition, as by their conduct during the period of it, that a spirit of cruel retaliation, or a barbarous design of wanton destruction, did not furnish the predominant cause for the deplorable consequences which ensued. But, as it is not the purpose of the committee, in this place, either to extenuate the conduct of the enemy, or to inculpate that of our own officers, they forbear further to enlarge on the transactions immediately connected with this painful event.

As the opinion now expressed, that this class of claims is embraced by the laws of April, 1816, and March, 1817, has been heretofore resisted by a most respectable committee of the House, it becomes proper to examine the reasons from which the opposite conclusion has been derived. They are in brief, as far as the committee is apprized,

1st. That, at the time of the invasion, a part only of the buildings were so far occupied by the Government as to give them such a military character as that "the usages of civilized war" justified the enemy in destroying them; and as the destruction was almost indiscriminate, it is therefore urged, that other causes than their use by the Government, produced the destruction.

2d. That, as the conflagration of Newark, by our army, afforded to the enemy a strong incentive for retaliation, therefore this motive must be imputed to his conduct in exclusion of the other.

3d. That the outrages committed by the enemy, in his subsequent invasions of the country, evinced that a barbarous design of wantonly destroying the property of our citizens, must have been the universal motive for his conduct.

In respect to the first of these objections, the examination which the committee has made of the evidence in support of individual claims, reported upon by the Commissioner, induces them to think that misapprehension has existed as to the nature and extent of the occupation, by the Government, of the buildings of the claimants. That all were so occupied as to justify their destruction "according to the usages of civilized war," is more than the committee is disposed to assert; for they confess they have not been able to discover such a precise and authentic definition of these usages, as enables them to decide positively what cases of destruction are, and what are not, embraced by them. But, that many of the buildings were in the exclusive, and almost all the others in the partial, occupation of the Government, previous and up to the period of their destruction, is satisfactorily established by the evidence returned with the commissions.

"That some of the buildings, particularly at Buffalo, were so oc-

cupied as to give them an unquestionable military character," is even admitted by those who have most strenuously opposed the indemnification claimed. It fortunately happens, however, to prevent the embarrassment which the committee, as well as the British officers who ordered the buildings to be burnt, must have experienced in discriminating between those cases which were, and those which were not, justified "by the usages of civilized war." that neither the law of 1816 nor that of 1817, requires this test or criterion to be furnished. To sustain a claim under those laws, it is sufficient that the building was occupied by the Government for a deposite, or as barracks, and destroyed by the enemy in consequence of such occupations. When the fact and the motive are proved, to demand also that the act should be justified, is to create a new requirement, not found in the laws. The law neither does, nor was intended to, discriminate between occupations that did, and those which did not, justify the destruction, provided the occupation by the Government, such as it might be, furnished to the enemy the motive or cause of the destruction. The reason that such a distinction is not made in the law, is too obvious to need illustration.

Taking, then, the fact, which appears to be sufficiently established, and which has hardly been denied, that almost all the buildings for which indemnification is claimed, were either partially or exclusively in public use, and connecting it with the evidence furnished of the motives and inducements that existed with the enemy for their destruction, the committee consider it to be demonstrated, as far as a fact of this nature is susceptible of demonstration, that the principal cause of the destruction of the property was its occupancy for public purposes; and that, therefore, the cases are embraced by the spirit and meaning of the laws which have been passed.

The argument by which this conclusion is resisted, which imputes to the enemy a bad motive, not only for his wrong conduct, but for his right, however plausible it may be, certainly operates too severely upon the sufferers: for, although it may be agreeable to our feelings to impute the worst possible motive to an enemy, it surely is not just to extend this uncharitable rule so as to affect the rights of our own citizens. The argument used denies indemnification as well for that destruction which was justifiable, as for that which was not; making the existence of claims, not provided for by the law, the ground for rejecting those which it admits, otherwise, would be embraced by its provisions.

The reply to the second objection, that the act of the enemy was merely retaliatory, the committee think is already furnished to the House, by the evidence afforded of the declarations and conduct of the British officers engaged in the expedition. The argument if used on the part of the Government, is certainly ungracious; but, admitting its propriety to the fullest extent, the committee think that it is satisfactorily opposed by the proof that the devastation of the frontier was for military objects, independent of motives of mere retaliation.

The third objection, which does not differ essentially from the last, assigns the subsequent conduct of the enemy as proof that an uniform design existed of wantonly destroying the property of our citizens. Although, if this fact was incontestible, it is difficult for the committee to discover how it could affect the obligation which this Government has incurred to its citizens; still, without feeling any disposition to justify the conduct of the enemy, they are bound to observe, that the present existence of the city in which we are now deliberating, as well as that of Detroit, and other places, in his possession, prove that his conduct, in every instance, was not "characterized by acts of indiscriminate wantonness."

If the views of this subject, which the committee have taken, and endeavored to give to the House, are correct, it follows, that every principle of consistency and good faith binds the Government to provide for the claimants the remuneration stipulated by its laws; and on this point, it is presumed, little difference of opinion can exist.

But, if the reasonings of the committee in this respect shall be deemed incorrect, and other arguments than those derived from the past legislation are required, the committee is confident that they can be found in those enlarged principles of social law and national policy which every free government is bound to cherish and to promote.

It is true, that the writers on public law differ as to the extent governments are bound to indemnify their subjects for losses sustained in war; but this discrepancy of opinion will be found to arise rather from the supposed inability of a government to afford universal indemnification, than from any doubt of the moral obligation that exists. And even this question is confined to those losses which are caused by inevitable necessity, and not imputable to the particular act or neglect of the government. In the latter case, it seems indisputable that the damages should be compensated; and in the former, where the losses are uncommon and totally ruinous, and the means of the state abundant for the purpose, it is admitted that an equitable regard should be showed for the sufferers, and a benevolent relief provided for their distresses.

A celebrated writer on public law remarks on this subject: "The sovereign, indeed, ought to show an equitable regard for the sufferers, if the situation of his affairs will admit of it. And it is perfectly consonant to the duties of the state and the sovereign, and of course perfectly equitable, and even strictly just, to relieve, as far as possible, those unhappy sufferers who have been ruined by the ravages of war; as, likewise, to take care of a family, whose head and support has lost his life in the service of the state. There are many debts which are considered as sacred by the man who knows his duty, although they do not afford any ground of action against him."

The obligation this principle establishes, and which results from the parental relationship that exists, has been felt and acknowledged by every civilized nation; and governments, even the most despotic, have at all times endeavored, in some measure, to discharge it. Without detaining the House with many examples which history affords

of this fact, it will be sufficient to illustrate the position by referring to the exertions made by the Emperor of Russia to relieve the distresses of his subjects, occasioned by the invasion of his empire, and the memorable destruction of his capital. If measures as humane, as prompt, and as liberal, had been adopted by the United States, to relieve distresses altogether more aggravated, it is believed that a patriotic and meritorious class of citizens would not now be heard complaining of the insensibility and injustice of their Government. The measures of the British Government, also, in regard to the losses of their Canadian subjects, (to which the committee will again refer) afford a more striking evidence of the sacred regard which is entertained for this principle.

But the committee are happy to say, that the history of our own Government is not destitute of numerous evidences of its susceptibility of a just and generous sympathy for the distresses, not only of its own citizens, but of those of foreign countries.

Not to mention the liberal and humane provisions made by many of the State Governments for losses suffered during the Revolutionary war, the committee have selected a few examples from the proceedings of the National Government.

In 1795, Congress granted the sum of $8,500 to indemnify persons in the western counties of Pennsylvania, whose buildings had been destroyed during the insurrectionary agitations in that quarter.

In the same year, a grant of 24,000 acres of land was made by Congress to the settlers at Galliopolis, in Ohio, in consequence of losses they had sustained by the frauds of individuals no way connected with the Government.

In 1812, Congress made large grants of lands to the inhabitants of New Madrid, in Missouri, whose property had been destroyed by earthquakes.

In 1794, in addition to a remission of duties to a considerable amount, Congress granted $15,000 for the relief of the unfortunate inhabitants of Hispaniola, who had arrived in this country.

In 1812, it appropriated $50,000 dollars for the relief of the citizens of Venezuela, in South America, who had suffered by an earthquake.

These cases, (and, it is presumed, many others might be given,) are enough to show that the Government of the United States has at all times cherished those feelings of humanity and philanthropy which are alike elevating and ennobling to nations as to individuals.

The distresses which a class of the claimants suffered during the late war, are not exceeded, if equalled, by the sufferings of any of those towards whom the just and kind relief of this Government has been extended; and certain it is, that no equal portion of the population of this country has ever manifested a more generous devotion of their lives and property to its cause.

It is not the province of the committee, had it the power, to recount the sufferings and privations of a community, whose possessions are made, for three years together, the immediate theatre for

the operations of conflicting and licentious armies; their ordinary business suspended; their fields, gardens, and houses, the thoroughfares of soldiers; their morals infected; their property plundered, and their persons outraged. And much less will they attempt to depict the scene of horror and dismay, that ensued the transaction which reduced them from a condition of competency, to that of petitioning for the bounty of their government. Feeble and inadequate would be an effort, to describe the real sufferings and distress of a helpless population, driven from their habitations in a winter's night, by the savage yells of an incensed and relentless enemy; flying actually from the tomahawk and scalping knife, with no light to cheer their gloomy retreat but the conflagration of their last worldly effects, and with no hopes of relief, but from the charities of a sparse and destitute population; widows and orphans of those who had fallen victims of this cruel invasion, actually without a shelter for their heads; the indigent without means of subsistence, and the comparatively affluent, reduced to penury and want!

The claims, which sufferers like these have for the sympathy and compassionate relief of their government, cannot be resisted, without doing violence to the most generous and god-like feelings of our natures.

But, strong as are the claims of these sufferers on the benevolence and charity of the nation, their appeals to its justice, in the opinion of the committee, are hardly less plain and distinct.

It is not designed to discuss the question, how far the rules and customs of those governments which are founded in injustice and oppression, and which rely for their support upon the ignorance and slavery of their subjects, ought to furnish measures for the justice and liberality of a republic like ours—the principle and base of whose political existence is, that burthens and benefits, resulting from its operations, shall be equally borne or enjoyed; nor will the committee attempt to decide how far its acts should conform to "those unquestioned principles of equity, daily and hourly recognized in every court of justice, in every state in the Union, and in every country on the globe, that all associations of individuals are bound to contribute, in proportion to their respective interests, to the expenses and losses incident to the promotion of objects undertaken by common consent, and for common benefit:" for, just and politic as the recognition of this principle might be regarded, the sufferers do not require the application of it, in support of the justice of their claims upon the country.

Throwing aside every consideration derived from past legislation on the subject, or from the abstract principles that have been suggested, and meeting the claims on the very ground where they have been placed by their opponents, What is their nature, and what the obligation imposed upon the government in relation to them?

It is contended that the destruction of the Niagara frontier was retaliatory of the desolating conduct of our own troops. Admit this to be the fact. Does the conclusion follow, that, therefore, the go-

vernment is in no way bound to afford indemnification to the sufferers? Let the facts be examined.

The declaration of the late war found the settlements on the frontier, which had recently emerged from a wilderness, progressing rapidly to a condition of prosperity and improvement. Their enterprising inhabitants, after having, by painful labor, converted a gloomy forest into fruitful fields, were solacing the recollection of their hardships, with the prospect of speedily attaining to those social comforts and blessings, which a deprivation, incident to their condition, rendered more dear to them. The annunciation, however, of this event, produced a complete revolution of their affairs. Pursuits of business were suspended; habits of social intercourse interrupted; and the relationship of neighborly kindness and friendship changed to feelings of deadly hostility and strife.

The Government of the United States, in the prosecution of a war, which, however just and necessary, was commenced for objects, certainly as unimportant to the sufferers, as to any part of the country—for purposes not of defence, but of conquest—select their possessions as the theatre of its military operations. Their houses, by the exigencies of the occasion, are converted into hospitals and barracks; their other buildings, into magazines of arms and ammunition, or into store houses for clothing and provisions; and their peaceful fields are made a bloody *arena*, on which are exhibited, for years together, successive scenes of alarms, skirmishes, battles, and massacres.

After having inflamed the resentment of the enemy, by repeated, but fruitless invasions of his territory, during which, as was inevitable, many unwarantable aggressions are committed; at the close of a campaign, distinguished by disasters, the Government withdraws its troops from the frontier, to engage them in a distant and almost hopeless expedition, and, having reduced its citizens, who, unrestrained by motives of prudence or calculation, had enthusiastically engaged in its cause, to a condition absolutely defenceless, it draws down upon them the strongest feelings of vengeance, and then leaves them the victims of the cruel, though not unnatural retaliation of the enemy.

Can the justice of a claim, founded on circumstances like these, need either authority or argument for its support? If authority is required, it can be found in every writer on public law; all agreeing, that, where reprisals are made against a nation on the property of individuals, "the sovereign is to compensate those of his subjects on whom the reprisals fall; it is the debt of the state or nation, of which each citizen ought only to pay his quota." The arguments in support of the proposition are so obvious, that the committee will hardly be justified in repeating them; they will, therefore, confine themselves to a single view of it.

There can be no doubt of the civil and moral obligation of a government to compensate its citizens for such injuries produced by its acts, which, if committed by individuals, would create a legal liability for reparation. It is on this principle, always admitted to be

just, that the law of April, 1816, is based. It is founded in those considerations of policy, justice, and good sense, which can never be overthrown. Apply the principle to the cases of the claimants. Where the occupation of property by order of an officer, induces the enemy to destroy it, the obligation of the Government to remunerate the owner, is acknowledged. Where the government distinctly commits an improper act upon the enemy, which provokes and produces a retaliation, resulting in the destruction of individual property, can its obligation to indemnify be less clear and positive?

If it is contended that the retaliatory act of the enemy, in destroying our frontier, was unjustifiable, then, it must be admitted, that the conflagration of Newark, by our troops, was much more so: for, no person, who examines the history of these transactions, will deny, that there are not more palliatives for one act than for the other. It follows, then, that, if, after the destruction of Newark, the enemy had abstained from reprisals, the Canadians, who had suffered by an act of our Government, not "justified by the usages of civilized warfare," would have had a claim upon this country for indemnification, which their own government would have enforced, and which ours could not have resisted, consistently with the principles it maintained in the treaty of peace. The enemy, however, instead of trusting to this right of indemnification, chose to obtain satisfaction, by destroying an equivalent amount of the property of our citizens, and by doing so, discharged the liability of this government to make good to the Canadians the losses it had unjustifiably occasioned them.

If this be a correct view, there is added to all the other reasons for remunerating the sufferers, one, which arises from the consideration, that their losses actually have compensated for the liability of this Government to pay to the subjects of the British Government an amount fully equal to the claims of our citizens.

That the destruction of the buildings on our frontier was regarded by this Government as an act of the enemy, justified either by their public and military character, or by the principles of retaliation, practiced by all nations, might be presumed from the fact, that, in the subsequent treaty of peace, it did not obtain from the British Government any indemnification for the sufferers. Yet, if the destruction had been wanton, and not warranted by the usages of civilized nations, or by the principle of retaliation, this Government, if it was not bound to prosecute the war for the purpose of obtaining an indemnification, was impelled, by considerations of humanity for its citizens, and of respect for its own dignity, to urge these claims strenuously upon the attention of the British Government.

The principle is not new, that one nation is morally bound to indemnify the subjects of another for aggressions, which, though committed during war, are not justified by those laws of it which are respected by the civilized world. It has long been admitted to be correct, and has been very frequently sanctioned in treaties between European nations. Indeed, by referring to the correspondence which led to the

late treaty of peace with Great Britain, it will appear, that the principle was not overlooked by the distinguished statesmen who represented this country at Ghent. It was proposed by them to the British commissioners, to have inserted in one of the articles of the treaty, "that indemnity should be made by each of the contracting parties, to the subjects or citizens of the other party, for all losses or damage sustained, subsequent to the commencement of the war, by reason of the seizure or condemnation of vessels or cargoes belonging to the subjects or citizens of the other party, which, in the ordinary course of commerce, happened, on the commencement of hostilities, to be in the ports of the other party; and by reason of *the destruction of unfortified towns, and the pillage and destruction of private property,* and the enticement and carrying away of negroes, contrary to the rules and usages of war between civilized nations."

This proposition, for mutual reparation by the belligerants, for transgressing the established usages of legitimate warfare, was rejected by the British commissioners, without, however, assigning satisfactory reasons for doing so. It is not improbable that their motive for rejecting it was, that two of its provisions. (comprehending cases whose claim for indemnity was most equivocal) although reciprocal in terms, were, in fact, exclusively applicable to losses sustained by our own citizens. If the proposition had been confined to the other object of indemnity, embracing only that description of losses which were mutual and nearly equal in extent, it might have experienced a different fate. In this case, the amount of indemnification to have been made by this Government to the British subjects, would have exceeded the sum now proposed to be given to our citizens.

If these circumstances do not increase the obligation to remunerate the sufferers, they at least show that our Government was aware that a just claim could be made upon it, to indemnify for those unwarrantable aggressions which had been committed upon the enemy during the war, under color of its authority; and, perhaps, the doubt (which might well have been entertained) whether the buildings on our frontiers had not assumed, so far, a public and military character that the destruction of them was not a departure from the established usages of legitimate warfare, influenced our commissioners not to renew or to urge strenuously, this part of the proposition. A greater probability is given to this conjecture, by the fact, that, ultimately, the principle of reparation was recognized by the British commissioners. The first article of the treaty of Ghent secures an indemnification to citizens of the Southern states for slaves that had been improperly carried away by the enemy. Why provision should be made for losses occasioned by aggressions of this nature, and no indemnification obtained for others, infinitely more aggravated and distressing, can, perhaps, be reconciled in no other way: unless it be by the consideration, that, as the latter losses were mutual, and nearly equal, it was unimportant whether one Go-

vernment indemnified the subjects of the other, or each its own. But, whatever may be the truth of this conjecture, the fact that no provision was made for these losses in the treaty, affords fair ground to infer, that the obligation intended to be assumed by this Government, in respect to the losses of our citizens, was equal at least, to that which it is manifest the British Government felt itself to have assumed to compensate the corresponding losses of its subjects.

It is ascertained by the committee, that the British Government has given about three hundred thousand dollars to its Canadian subjects, whose buildings were destroyed by our troops, and has adopted other measures, which are now in train of execution, by which a complete indemnification to more than three times that amount will be made.

If the British government, after spending millions to defend their subjects in a remote province from the operations of a war which, however much it provoked, it did not declare, has still felt it to be a duty, crippled and depressed as is the state of its finances, to assume and pay the losses occasioned by the depredations and burnings of the American troops, without inquiring into the motives that produced them, does it not furnish some evidence that a corresponding obligation rests on this government to make provision for its citizens? Without adverting at all to the strong distinction which may be made between the condition of the free and equal citizens of a republic, and that of colonists dependent on a monarchy, the difference of circumstances alone under which the losses were produced, places the obligation of this government to its citizens in a much stronger light than that of the British government to its subjects.

The losses of the Canadians certainly did not arise either from a culpable act, or from neglect on the part of their government: for, though situated thousands of miles from its seat, the treasure of the nation was lavishly expended, and every other means in its power were exerted, to defend them from our invasions. The British government, it must be allowed, faithfully discharged every obligation incident to its duty of protection. But the circumstances with this government were different. It not only declared the war, but, for purposes purely governmental, selected this frontier for the theatre of its operations; gave to the property upon it a military character; provoked the vengeance of the enemy by an unjustifiable act; and then imprudently withdrew its troops, leaving its defenceless inhabitants to the power of the enemy.

It has been said, that the destruction by the enemy was wanton, and that losses occasioned by the wantonness of an enemy, ought not to be indemnified. There may be some disagreement as to the meaning of the term wanton destruction; but, strictly speaking, in a state of war, those acts only can be called wanton, which are neither useful to the government that inflicts them, nor injurious to the government upon whose subjects they are inflicted. Even measures purely retaliatory, cannot properly be termed wanton. With this definition of the term, or with any other that correctly can be given, it is difficult to discover how it will apply to the act of the enemy in destroying the

American frontier. The term, probably, may be applied to the destruction of Newark, by our troops, as that was a measure productive of no military advantage, and, at the time, in no degree justified by the principle of retaliation. But the desolation of our frontier, dreadful as the measure was, had an important military effect, not only by the destruction of a large amount of public property then upon it, but also by giving an important security to the enemy's frontier against our invasions. As a measure of retaliation, it was provoked, and as far justified as a proceeding so cruel well can be.

But if, for sake of the argument, it is admitted that the destruction was strictly and purely wanton, does it follow that the Government is, therefore, absolved from all obligation to relieve the distresses of the sufferers?

Independent of the common obligation imposed on all governments, to protect their subjects from invasion, every nation is bound to exert the power (indispensable to its political existence to possess) to protect its subjects equally in war as in peace, against those aggressions of a foreign government, which are contrary to the acknowledged laws of civilized nations. To suppose a particular state inadequate to this great object, is to suppose it incapable of independence; and the admission of the inability, is virtually a dissolution of its government. No nation, therefore, in modern times, has acknowledged itself to be unable, either by the aid of alliances, or otherwise, to protect its subjects against those acts of an enemy which are in violation of the usages of civilized war. Until a nation is actually conquered, this ability must be presumed to exist. After peace is concluded, the argument which is used, that this Government was incapable either of protecting its subjects, during the war, from "the wanton destruction" of the enemy, or of obtaining an indemnification for them by treaty, instead of leading our minds to the grateful conclusion, that the war was gloriously maintained, and honorably terminated, will lead to one too false and humiliating to be expressed.

In support of the doctrine, "that losses occasioned by the wantonness of an enemy ought not to be indemnified," it has been urged, by authority too respectable to be overlooked, that "no rule of propriety would require that persons should be paid for the loss of their houses, while the farmer, or planter, who loses in the reduced price of his crop, or the merchant, in the capture of his vessels at sea, should not be paid." Were it not from the intelligent source from which this parallel comes, it would seem to be difficult to conceive cases more unlike. They are distinguished not merely by the difference in the nature of the protection due to the habitations of our citizens in the bosom of the country, and that which is owed to property sent abroad on the ocean of speculation and adventure, but also by the difference between losses remotely consequential, general in operation, uncertain in extent, and comparatively light in effect; and those which are direct, local, positive, and totally ruinous. To compare the loss which a planter may experience, by the reduced price of his tobacco crop, in consequence of a public war, with that of a Niagara sufferer, who, "at one fell swoop," has had his whole worldly possessions—

the painful fruits of a laborious life, and his last hopes of future comfort—swept to destruction, is indeed finding a resemblance, not in the power of the committee to discern. But, there is another, and still more important distinction; the losses of one class are not only the incidental, but the legitimate effects of war; while the other, by the very reasoning adopted, are produced by the wanton and illegal acts of the enemy, in violation of the laws of war, which are acknowledged by all civilized nations. Not to repeat what has been already said, it does seem that the fact of the destruction being wanton, and contrary to the usages of civilized war, does (except under particular circumstances, not existing in this case,) impose on the Government the duty of providing, either from the enemy, or from its own treasury, an indemnification for the sufferers.

Another argument urged, is, that, if the Government sanctions the principle of compensating its citizens for losses, occasioned by wanton destruction, it will induce an enemy "to wage war upon the property of our citizens, and thus aim an effectual blow at the finances of the country." It perhaps would be a sufficient reply to this argument, that no country is justified in engaging in a war, when it neither possesses in itself, nor can acquire by means of alliances with other states, the power of restraining its enemy from committing upon its citizens those enormities and outrages, which are repugnant to humanity, and to the laws of civilized nations. Wars are only justifiable as means of redressing wrongs; when a country, therefore, by war, can neither redress the wrongs it has suffered, nor prevent the infliction of still greater ones, it can have no justifying motive for engaging in it. Such a Government exists merely by the indulgent forbearance of other nations, and not by its own strength. It has no independence, in fact, and must be dissolved, as soon as touched by the finger of power. Surely it will not be contended, that this is the condition of our country, or that it has not the diposition, and the means, of redressing every wrong that a foreign Government shall inflict on our citizens.

But the argument is founded on a misapprehension of the motives which restrain belligerant nations from committing enormities, not tolerated by the civilized world. It is not because destroying the property of the citizens does not affect the finances of a Government, that a system of universal desolation is not pursued: for, in many nations, and more especially in our own, the financial resources of the country consist only of the property of the citizens. When, therefore, it is considered, that it must be after the war is terminated, and when the state of the public revenue will allow, that indemnification for private losses is made, it is obvious that the financial means of a Government to prosecute a war, are in no measure affected by the fact, whether it does or does not "sanction the principle of compensating its citizens for losses, occasioned by the wanton destruction of the enemy." The security against acts of savage barbarity, arises, in some measure, perhaps, from a fear of the dreadful reprisals they would provoke, not only in the particular war, but in

all future wars, and from the sentiment of universal abhorrence of the offending nation, which such conduct would produce in the whole civilized world; but more from the ameliorated state of human society; a juster sense of human rights; in fine, from the influences which Christianity and civilization have had, in enlightening and improving the human character. The same motives will operate to prevent the wanton devastation of private property, as will to deter a victorious enemy from massacreing defenceless old men, women, and children. Indeed, the argument is equally good against providing for the families of those who had fallen in defence of our country: for this may induce an enemy to massacre prisoners of war, in order, by thus swelling our pension roll, "to aim an effectual blow at the finances of the country."

Considerations like these ought not to enter into the policy of a great and enlightened republic; neither the fear of a savage and inhuman policy in our enemies, or a distrust of our own power of defence, should drive us from those principles of justice and humanity, which give to a nation a truer glory, and a more elevated rank, than the deceitful splendor of military renown. No nation was ever injured by its justice, or impoverished by its benevolence.

Another view that has been suggested, why it would be "impolitic, if not dangerous," to extend relief to the sufferers, is, "that, if they should be indemnified for all losses of property of this description, it would tend to lessen their determination to defend it;" and it is asked, "Would they not be disposed to abandon it—to yield it up an easy prey to an invading enemy?"

An easy and sufficient reply to this inquiry might be found in a history of the pursuit of these sufferers for an indemnification, admitting that they ultimately obtain it. But do they, or can they, obtain it? The most they ask, or expect to obtain, is, payment for the value of their property actually destroyed. After ten years' delay, what is this like an equivalent for their losses and sufferings? Can it be believed, supposing our citizens to be influenced only by pecuniary calculation, that they will "yield up their property an easy prey to an invading enemy," with a view of obtaining, from the slow justice of their Government, at a remote period, after a loss in time and money, hardly less than the original claim, a doubtful, and, at best, partial and inadequate compensation? A knowledge of the feelings of those, whose misfortune it is to have private claims upon Government, it is presumed, would quiet such alarming apprehensions.

But there is a higher and more noble motive for defending one's country from hostile invasion, than that which springs from the sordid calculation of pecuniary gain. Who, of the patriots, by whose blood the liberties of this country have been purchased, was stimulated to make the glorious sacrifice, by considerations of this nature? If no other motive than this warms the heart, and nerves the arm, of an American freeman, to defend his country from the polluting foot of an invading enemy—then, in truth, our liberties are gone!

On the general question of the policy of affording indemnification in such cases, the views of the committee are well expressed in one of the memorials addressed to Congress on this subject, from which they beg leave to extract,

"The strength of every nation will always mainly depend on the patriotic devotion of its people to their common country; and where, we may ask, are we to look for the foundations of that patriotism, that sacred love of country, which attaches and binds each citizen to his fellow-citizen? Is it not to be traced exclusively to that community of interest, that identity of fortune, and that consequent sympathy of feeling, to which we are destined by the operation of our political institutions? And wherein, we may ask, consists the characteristic excellence of a republic, which alone distinguishes it from other governments, and gives to republican patriotism such peculiar force and character, if not in the only circumstance, that it metes its blessings with a more equal hand to every class of citizens, and will not permit one human being to toil, to suffer, or be oppressed, to gratify the pride, ambition, or avarice of another."

"Apply these sacred principles of union and equality to a state of public war, which, of all political relations, requires most the single and undivided energy of will and action of a nation, and what does policy dictate? Does it not admonish us to unite, consolidate, and, as far as possible, identify, the interests of a whole people, and by thus producing an extended sensibility, to give individuality to national feeling and exertion? Or does it, on the contrary, dictate to us to break asunder the ties and obligations which bind us to each other in times of peace, to set afloat the elements of disunion and avarice, and to convert what ought to be a great and united effort against a common enemy, for national right and principle, into a disgraceful squabble for property among ourselves?

"What would not be the ruinous consequences of that piratical policy, which places every man at war with his fellow man! Would not interest influence those, whose local situation secures them from the accidents of war, to seek pretexts for war, the effects of which would be, to double the prices of their produce and manufactures? And would not the frontier and exposed citizens resist even a just war, which was to be carried on at their exclusive hazard? Or, if forced into it, would they not compound with the enemy for that protection and indemnity, which their own government refuses them? And if it be true, that protection and allegiance are reciprocal and dependent duties, where would be the breach of civil or moral obligation, in withdrawing one, after the other had been abandoned?"

The views which the committee have taken of this subject, some of which they have endeavored to give to the House, have led them to an opinion, that the Government ought to make provision for the claimants. The only difficulty they have experienced, has been, in framing a bill which would secure to the sufferers the means of obtaining a reasonable relief, and at the same time afford to the Government a sufficient protection against the frauds and impositions

of unprincipled speculators. How far their efforts in this respect have been successful, is respectfully submitted.

It may be objected to this bill, as it has been heretofore, by those who professed to be friendly to the principle of indemnification, that the claim of each individual sufferer should be brought separately before the House, and distinctly adjudged upon. This objection, although plausible, amounts practically to a denial of relief. Whoever has attended to the proceedings on private claims in our House, must be sensible of the impracticability of doing justice in more than two hundred cases by this course. Years will sometimes elapse, before a claimant can obtain even the form of a discussion of his case in the House: and then it may be under such circumstances of apathy and inattention, as shall render the chance of obtaining justice very uncertain at best. A distinguished member has observed, that the right of petitioning Congress, virtually, had become the right of having petitions rejected. The truth of this remark, as respects private claims, must have become too evident to every member experienced in public business. Nor is it intended as a reproach to the House. It arises, not from any fault of the members, but from the nature of the body, and of the high and more important duties of general legislation, that are devolved upon it. The committee think, therefore, if a disposition exists of affording any relief to the sufferers, it is indispensable that it should be by a general provision.

To relieve apprehensions, which have in some instances been expressed, of the enormous amount of the claims, the committee have deemed it a duty to examine as to this fact. Their inquiries, although they have not resulted in an ascertainment of the precise amount, have satisfied them, that a sum less than 500,000 dollars will be sufficient to carry into full effect the provisions of the bill, and to afford to the sufferers throughout the United States, the indemnification that it contemplates.

It is unnecessary for the committee to express its perfect conviction, that, if the views now presented in favor of the claims, shall be considered correct, that a sum like this, considerable as it is, will not for a moment delay this Government from extending to the sufferers that justice which they demand.

Part of the testimony in support of the Niagara claims.

Copy of testimony taken under a commission issued to Daniel Rapine, and applicable to the case of ——.

WASHINGTON COUNTY, } ss.
District of Columbia. }

Be it remembered, that, on the 20th day of August, in the year eighteen hundred and sixteen, before me, the subscriber, appointed by virtue of the accompanying commission, a commissioner to take testimony in the case of William Hodge and others, claimants, at Buffalo, under the act of Congress of April 9th last, personally appeared Colonel Cyrenius Chapin, and, being sworn in due form of law, deposed and said, that this deponent was at Buffalo, in the state of New York, at the time the enemy landed on the American shore near Black Rock, on the night of the 29th of December, 1813; that, on the landing of the second party of the enemy, at daylight of the 30th of December, this deponent was at Black Rock; on the same morning a battle took place between the United States' troops and the enemy, and, on the flight of the former, the enemy marched to Buffalo, without committing any depredations on the houses and property on their way. On their approach to Buffalo, a skirmish took place, but the carriage of a cannon, on which the militia principally relied for defence, giving way, this deponent was requested by the trustees of the town of Buffalo to meet the enemy with a flag, and to offer to capitulate. This deponent went out with a flag accordingly, and met the enemy, and, after a short conference, articles of capitulation were agreed on, reduced to writing, and executed, and it was thereby stipulated that private property and private persons should not be molested or injured; these articles of capitulation were signed by General Rial and the deponent, and the original was left with deponent, and remained in his hands until after he was unjustly made prisoner and carried over into Canada, when he sent it to General Prevost, as it was necessary to obtain his discharge, since which time the instrument has never been in deponent's possession. After the capitulation, the enemy entered Buffalo, and stationed a guard before the houses of the deponent, and of Ebenezer Walden, Ralph M. Pomeroy, Pratt and Leach, Lewis Le Coulteaux, Stocking and Bull, Coit and Townsend, Storrs and Caryl, and some others, which deponent does not remember, for the purpose of protecting the said houses, and none of the abovementioned houses were burnt until the first of January, at midnight. Soon after the entrance of the enemy into the town, they set fire to several houses; among others, to the houses of Elias Ranson, James Baird, Oliver Forward, Asa Fox, Henry Kitchen, widow Atkins, widow St. John, several houses belonging to Gilman Folson, Luke Draper, widow Pratt, Grant's store, and several others not recollected. As soon as they commenced firing these buildings, the deponent remonstrated with General Rial on this flagrant violation of the terms of the capitulation, and his reply was, that the houses he set on fire were places of

public deposite, occupied and appropriated to the use of our army, which was not protected by the terms of the capitulation. This deponent then complained of the court-house being set on fire, and General Rial immediately ordered a party of men to go and extinguish it; they had commenced putting it out, and had nearly extinguished it, when General Rial, having been informed that it had been used as a barrack for American troops ordered it finally to be burnt. This deponent knows that the house of Elias Ranson had been used and occupied as a barrack for American troops for several months before, and his barn for their horses: the house of William Baird had been used as a store house for public property above twelve months; Oliver Forward's had been used that day as a laboratory, and had long been used as barracks for our troops; the houses of Asa Fox and Henry Kitchen had been employed as barracks for about ten days before; in widow Atkins' house there was a quantity of powder, and both her house, and that of the widow St. John, had been constantly used for some length of time as barracks; and most of Gilman Folson's houses were occupied as barracks, and some as laboratories, containing powder; Grant's store had long been made use of as a place of deposite for military stores; widow Pratt's house was used as barracks, and Luke Draper's house had also been made use of as barracks, but latterly it had been made use of as a laboratory; the principal part of the houses that were destroyed, in fact, on the 30th of December, had been, and then were, more or less, in the use and occupancy of the public, and of American troops. This deponent was made a prisoner by the enemy, on the 30th of December, and was carried across the Niagara, and was not on the American shore till five months after, when he was released, but, though a prisoner, he had reason to believe, that no houses were burnt in Buffalo on the 31st of December, as he might have seen the flames, nor has he ever heard that any houses were burnt that day. On the first of January, this deponent was sent into the country as a prisoner, and did not know of the destruction of the other houses in the town on that day until his arrival at Montreal, when General De Rottenburg, Sir Sidney Beckworth, and Major Loring, informed this deponent of the destruction of this deponent's house, and other buildings, and gave as a reason, that, on examination, they found that they contained public property, and were used as military deposites, and that they would not otherwise have been burnt. Major Loring also informed this deponent, that he commanded the party that burnt William Hodge's house, which, they were informed by some good friend of their's, contained public property, which they found to be the case: this was the reason given for the destruction of all the houses in Buffalo. This deponent knows that William Hodge's house had been occupied for some time before by United States' troops, and also contained a large quantity of arms and ammunition; that this deponent's house also contained a large quantity of arms and ammunition and naval stores, and troops were stationed in the small buildings; that in the shop there was a quantity of powder, arms, and fixed ammunition; that Ebenezer Walden's house contained arms, and that the

barn was occupied by the quartermaster as a deposite for forage. The cause of the destruction of Pomeroy's house, as this deponent understood, was the quartering of troops there, and a box of swords being found there. Pratt and Leach's house had been long used as barracks; Stocking and Bull's and Coit and Townsend's houses had been used for some time as barracks; Storrs and Caryl's house had been long used as a public store house; that there were between two and three thousand militia stationed at Buffalo when the enemy landed, as above mentioned, and were ordered by General Hall, as they arrived, to quarter themselves in the houses of the town, which order was executed by Major Camp; the United States had no store houses or barracks but what were the property of private individuals; that the certificate and depositions purporting to be in the hand writing of General Hall is his hand writing; and that this deponent does not know of any agreement being entered into by the United States officers, with the owners of houses, respecting the occupation of them, and that, in most instances, the owners of the houses were compelled, against their wishes, to receive troops and public stores into their houses, and in spite of their objections thereto, (and, among others, Townsend and Coit, Stocking and Bull,) as it was attended with great inconvenience and loss to the inhabitants; that this deponent is not, directly or indirectly, interested in the establishment of any of the claims founded on the destruction of property by the enemy at Buffalo, except his own claim for property so destroyed. William Hodge's house was not within the limits of the corporation of Buffalo, nor was this deponent's barn, (which had been used for two years at least as the principal arsenal in that quarter) within the limits of the corporation of Buffalo. CYRENIUS CHAPIN.

Sworn to and subscribed, this 20th day of August, before me,

DANIEL RAPINE.

And now, at the same time, personally appears Claudius V. Boughton. and deposeth and saith, that this deponent was at Black Rock, on the night of the 29th of December, 1813, when the enemy landed there; a battle took place between the United States' troops and the enemy, immediately after landing; about day-light of the 30th they advanced on Buffalo, at which place a fight took place, and this deponent understood, from common report, that a capitulation had been entered into between the citizens of Buffalo and the British, stipulating that private property, and private persons, should be respected; that this deponent was not at Buffalo when the enemy entered that place, but saw the smoke of the burning houses on the 30th of December, and 1st of January, no houses having been burnt on the 31st of December. The militia stationed at Buffalo, previous to the battle. amounted to at least two thousand men, and they were quartered in the private buildings of the town, there being no public barracks in the vicinity; that this deponent knows that the small houses of Colonel Chapin, and the houses of Asa Fox, Gilman Folson, Elias Ranson, and many others, were occupied by the troops; that Colonel

Chapin's main house contained a quantity of stores, belonging to the public, and, it was so difficult to find quarters in the town, for the troops, from the houses being full, that one squadron of cavalry, of the twelfth regiment, was ordered four miles out of town to the house of widow Atkins, for quarters; that the house of William Hodges, situated on the Batavia road, two miles from Buffalo, was occupied, at the time of the destruction of Buffalo, by one company of cavalry of the twelfth regiment, commanded by Captain Wilson, and had been occupied by that company for several days; that this deponent acted as adjutant of cavalry, and detached a number of men on duty from William Hodge's house, on the 29th of December, by order of Major General Hall; that this deponent has understood, from report, that the said house was then used, and had for some time before been used, as a deposite for public property; that the said house of William Hodges was not destroyed by the enemy until the first of January, 1814 and was then destroyed by a small detachment of the enemy, not exceeding a dozen in number, while the main body was returning from Buffalo, the main body never having come up the road to Batavia; that, in most instances, this deponent knows that the owners of houses at Buffalo were compelled to receive public stores and troops into their houses against their wishes, and in spite of their objections thereto, but, as this deponent did not know who were the owners of the houses, he cannot specify those who were compelled; that this deponent heard Colonel Segmour Boughton, who commanded deponent's regiment, and was killed between Buffalo and Black Rock, ordered to quarter his troops in such houses and barns in the town, as he could find unoccupied; that the deponent, with Colonel Boughton, and several other officers, and about 100 or 150 soldiers, took possession of Elias Ranson's house, and Elias Ranson's family were compelled to retire into the kitchen; that this deponent is not, directly or indirectly, interested in the establishment of any of the claims founded on the destruction of property by the enemy at Buffalo; and the said deponent further saith, that he is not, directly or indirectly, interested in part of any of the claims from the town or village of Buffalo. CLAUDIUS V. BOUGHTON.

Examined, subscribed, and sworn, this 22d day of August, 1816, before me, DANIEL RAPINE.

Be it remembered, that, on this twentieth day of August, eighteen hundred and sixteen, before me, the subscriber, appointed by virtue of the accompanying commission, a commissioner, to take testimony in the case of William Hodge, and other claimants, at Buffalo, under the act of Congress of April 9th, last, personally appeared Major John G. Camp, and being duly sworn, deposed and said, that he was assistant deputy quartermaster general in the United States' service at Buffalo, on the 29th of December, 1813, and in the command of that department; that this deponent accompanied

the advance guard of the American army, under the command of Colonel Cyrenius Chapin, when the enemy landed; that this advance guard marched down below Black Rock, to a battery near Congoquetta creek, where they encountered the enemy, who drove them back upon the main body of the American army, then at Black Rock, under the command of Major General Hall; on the morning of the 30th of December, at day light, the principal force of the enemy crossed the Niagara in open boats, under the cover of their artillery, planted on the opposite shore, and were met by the American army on their landing; a battle ensued, in which the American troops were compelled to fall back upon Buffalo, where some skirmishing took place; the principal part of the American forces soon retreated, and left the village of Buffalo defenceless; the firing, however, continued (after the retreat of the main body of the American army) from two pieces of artillery, planted on an eminence in the village of Buffalo, until the principal piece was dismounted, and the enemy had approached too near to give time to remount it; all hopes of being able to defend the town, after this accident, having vanished, Colonel Chapin, at the request of the trustees of Buffalo, in which request the deponent, being the only United States' officer of the regular army then present, concurred, went to the British advance with a flag, for the purpose of obtaining terms from the enemy; this deponent remained at Buffalo until Colonel Chapin's return, whom he met holding a paper in his hands, which deponent understood from Colonel Chapin to be the terms of capitulation, which guarantied the safety of private property and private persons; deponent was prevented from reading the articles of capitulation, by the rapid approach of the enemy, who were then within half pistol shot, the enemy having got possession of the eastern road; deponent retreated, with about twenty men, up Lake Erie; the enemy took possession of the town of Buffalo, at about ten o'clock in the morning, and burnt from four to five houses on their entrance, and in the course of the day several more, all of which contained munitions of war, and were barracks of United States' troops; on the first of January they burnt the principal part of the buildings in the town, and at night recrossed the Niagara; about a week or ten days after, this deponent met Lieutenant Connell, of the 41st or 49th British infantry, bearing a flag to Black Rock; deponent entered into conversation with said Connell, on the subject of the conduct of the British army at Buffalo, in which deponent charged the British with having violated the articles of capitulation, which said Connell denied, and declared that he knew very well what the articles of capitulation were; that the British were bound, by them, to respect private property and private persons only; that, on entering the town of Buffalo, the orders given to the British troops were in conformity to the articles of capitulation, namely, "to respect private property, and private persons;" that they (the British,) found the town of Buffalo to be a military cantonment, in consequence of which it was destroyed, and that they had destroyed nothing which they were not justified in destroying, both by the usages of war, and the terms of capitula-

tion; this deponent further states, that he was present at an interview between the committee of safety of the town of Buffalo, and General M'Clure, on or about the 20th of December, 1813, when said committee remonstrated, on behalf of the inhabitants of said town, against his (the general's) occupying the said town with his troops; and stated, that they had reason to apprehend the destruction of their property, by the enemy, should they ever obtain possession of the town, in consequence of its being in the military occupancy of the United States; to which General M'Clure replied, that he would pledge his honor that the Government of the United States would indemnify the inhabitants of Buffalo for any losses which they might sustain, in consequence of its being in the military occupancy of the United States, and advised them to give up their houses peaceably; and, this deponent states further, that the town of Buffalo was, in fact, a military cantonment at the time of its destruction by the enemy, and had been so for some time before; that, during the whole war, one part or other of the town was constantly in the military occupancy of the United States; that, at the time of its destruction by the enemy, from 2,500 to 3,000 United States' troops were quartered at Buffalo, by order of Major General Hall, the commanding General, and public property, as this deponent verily believes, to the amount of one hundred thousand dollars at the least, was deposited in said town in different houses; and this deponent further states, that the following are the names of some of the persons whose buildings, in the town of Buffalo, were occupied by the United States, as barracks for soldiers, or as deposites for military stores, viz: Joseph Landon, Zenos Barker, Juba Storrs, and Co. Lewis Le Coulteaux, David Rees, Timothy M'Keowin, Vincent Grant, John Brunson, Ralph Pomeroy, Reuben B. Heacock, widow Grovenor, Seth Grovenor, Martin Daly, Stocking and Bull, Ebenezer Walden, Joshua Lovejoy, Oziel Smith, Robert Cain, Ira Dickenson, Messrs. Campbell, Mr. Gilbert, blacksmith, Joshua Gillet, Norton and Davis, Raphael Cook, Smith H. Salisbury, Amos Callender, Townsend and Coit, Oliver Forward, Cyrenius Chapin, Gilman Folsom, Eli Hart, Luke Draper, Mary Atkins, Sylvia Holmes, Mr. Stow, cabinet-maker, Storrs and Caryl, Benjamin Caryl, Herman B. Potter, William Gaird, Margaret St. John, Jude Atwater, James Chapin, Elias Ranson, Elisha Ensign, Ebenezer Johnson, John Root, Henry Kitchen, James Edsall, and William Hodge; and this deponent further saith, that all the houses in the village of Buffalo, destroyed by the enemy, were in the military occupancy of the United States, and that the enemy passed a number of houses which were not in the military occupancy of the United States, and proceeded to the House of William Hodge, (which is about two miles distant from the village of Buffalo) which was in the military occupancy of the United States, and destroyed the same: said deponent further states, that he is not, directly or indirectly, interested in the event of any claim, or claims, from the town or village of Buffalo.

JOHN G. CAMP.

Sworn to, and subscribed, this twentieth day of August, 1816, before me, DANIEL RAPINE.

WASHINGTON, *January 20th*, 1817.

I certify that, from the commencement of the late war between the United States and Great Britain, until the destruction of the Niagara frontier, I passed most of my time on that frontier, and was in the habit of frequently visiting the whole of the American line from Buffalo to Fort Niagara. During this period, large bodies of troops, averaging, probably 3000 men, were quartered along this line; and from the almost total want of public buildings for military purposes, the private buildings of the inhabitants were converted to public uses. So general was this public occupation, that, on careful reflection, I cannot, at this time, recollect a single building from Buffalo to Niagara inclusive, fitted either for a store-house hospital, quarters for officers, or barracks for men, which was not, during some portion of the above period, used principally, if not exclusively, for one or more of the above purposes. This universal occupation was not continued throughout the whole of the above period but varied with the various fluctuations of the army, from one part of the line to another, occasioned by the movements of the enemy, or the military objects of our own generals.

During the Fall of 1812, the attention of the American commanders was engaged in operations against the enemy; and, at the close of that campaign, on the 1st of December, an army of near 5000 men, was found, in an inhospitable climate, an inclement season, without quarters, and assailed by a deadly disease. It became indispensable, therefore, to the preservation of the lives of the men, that the buildings of the citizens should be occupied for sheltering the troops; and, during that winter, the whole Niagara frontier assumed the appearance of a military cantonment. This occupation continued very general until about the first of the succeeding May, when the troops left their winter quarters, and proceeded to the attack of Fort George. During the summer of 1813, the villages of Buffalo and Black Rock, on the southern part of the frontier, were considerably relieved, having, comparatively, but few troops quartered in them, but most of the buildings to the northern part of the frontier, from the Falls to Fort Niagara, still continued in public occupation The army was principally at Fort George; but the sick and wounded, with their attendants, several guards of infantry, and a considerable part of the cavalry, were still quartered on the American side, and were distributed among the houses, barns, and other buildings, from Lake Ontario to the Falls. I frequently passed up and down the river in the course of that summer and fall, and there was scarcely a building that had not the appearance of being occupied by the military. I left the frontier about the middle of December, 1813 and, therefore, cannot speak from my own knowledge, of the extent of the military occupation at the time of the invasion by the enemy.

PETER B. PORTER.

Washington County, ss.

On this 21st day of January, 1817, before me appears Peter B. Porter, and made oath in due form, that all the matters and things contained in the above and foregoing writing, by him subscribed, are true, to the best of his belief.

DANL. RAPINE.

Be it remembered, that, on this thirteenth day of November, in the year 1816, before me Daniel Rapine, appointed by virtue of the accompanying commission, to collect testimony on the claims of William Hodge, personally appeared George McClure, and being sworn in due form of law, deposed and said, that, in the fall of 1813, this deponent commanded the American troops on the Niagara frontier, after the departure of General Wilkinson to Sackett's Harbor with the main body of the army; that it was the first intention of this deponent, on hearing that a large force, under General Drummond, was approaching, to defend Fort George; and, in pursuance of the advice of his council of war, that he laid before the said council a letter of General Armstrong, of which the following is a copy:

WAR DEPARTMENT, *9th October*, 1813.

SIR: Understanding that the defence of the post committed to your charge may render it proper to destroy the town of N. A. you are hereby directed to apprise its inhabitants of this circumstance, and invite them to remove themselves and their effects to some place of greater safety. I am, sir, very respectfully, your most obedient servant,

JOHN ARMSTRONG.

The Officer comm'g at Fort George, U. Canada.

That the said council deemed it necessary that New Ark should be destroyed, not only for the defence of Fort George, but also that of Niagara, and the other military posts on the American side of the straits. In pursuance of the authority contained in said letter, the said town was set on fire and burnt, after the inhabitants had been duly apprised, and requested to remove themselves and property. About the time of the execution of this order, it was the unanimous opinion of the said council of war that the American force could not stand a siege in Fort George; because the time of service of the drafted militia had expired, and no advices of a reinforcement, or others to supply their places, and accordingly the said Fort was evacuated on or about the first week in December, 1813, and the American troops crossed the river Niagara. On their arrival on the American side, this deponent ordered the few troops that remained with him, to quarter themselves at Lewistown, Manchester, and Buffalo. Many

of the houses in Youngstown were then, and had previously been, occupied by our troops as an hospital, and this deponent knows that his troops did quarter themselves in different private buildings in Lewistown and Buffalo; that a large quantity of arms, ammunition, provisions, &c. destined for the use of the army, were more or less deposited in private buildings, in Lewistown and Buffalo. That this deponent remembers that a deputation of the inhabitants of Buffalo waited on him, in consequence of the occupation of Buffalo by the American troops, and expressed an apprehension that the town would be destroyed by the enemy in consequence of such occupation, and this deponent recollects that he told the inhabitants that his troops must be accommodated; and he expressed a belief that Government would indemnify them for any losses that such military occupation might occasion; and that, during a good part of the fall of 1813, the private buildings in the aforesaid towns on the Niagara river, were occupied by the American troops in the service of the United States.

That he verily believes the consequence of destroying the towns on the Niagara river was to show the station of the American troops a considerable distance from the river; and it is this deponent's belief that the enemy would have destroyed the American towns on the river long previous to the destruction of Newark, if they had had them in their power, with a view of protecting their own frontier. And this deponent further states, that necessity compelled him to quarter part of his troops in the villages aforesaid, in consequence of a great deficiency of tents, and the inclemency of the season, as well as for the purpose of protecting the military stores deposited there: and further this deponent saith not.

GEO. M'CLURE.

Sworn and subscribed before me,

DANIEL RAPINE.

District of Columbia,
Washington County.

Be it remembered, that, on this 14th day of January, in the year of our Lord 1817, before me, the subscriber, appointed, by virtue of the accompanying commission, a Commissioner to take testimony in the case of Pliny A. File, and others, of the Niagara frontier, claimants under the act of Congress of April 9th last, and a justice of the Peace, came Col. Samuel Lane, Commissioner of the Public Buildings at Washington, who, being sworn in due form of law, deposeth and saith, that he arrived at Buffalo on the 12th of September, 1812, with Winder's regiment, to which he belonged, and Gibson's corps of artillery. On his arrival there, he found the New York militia, under the command of Major Gen. Hall, dispersed, some in houses, some in tents. In December, 1812, this deponent, together with the 14th

and 23d regiments, under the command of General Winder, were ordered by the commanding General to take possession of the houses in Black Rock, necessary for their accommodation: and in the course of the winter, the accession to our force at that point made it indispensable to place troops in almost every house of Black Rock, together with their camp equipage, fixed ammunition, and the stores pertaining to them; in a word, the munitions of war with which the army was furnished, were generally secured in houses. The fixed ammunition and camp equipage, belonging to the men under this deponent's command, were necessarily housed with them, there being no magazine or arsenal. This deponent held the command at Black Rock during the months of January and February of the forementioned period, and deemed it essential to the preservation of the troops at that season of the year, and also to the safety of the munitions of war with which they were furnished, that they should be located and secured in the manner described. Similar causes required a similar disposition of the force which remained in Buffalo during the winter; two companies of which, this deponent recollects, passed their winter quarters in the houses of that village. The military occupation of those places continued until the opening of the campaign, and was distinctly manifest to the naked eye of the enemy, from the opposite shore of the river, which was, besides, occasionally raked by the batteries at Black Rock. The repeated visits of British officers, from the grade of colonel down, might also, had further evidence been required, have ascertained the fact. Lieut. King, who had been wounded, was brought over by a detachment from our army, and placed in a house at the lower end of Black Rock. The campaign closing soon after, permission was obtained by the officers of the British army to visit him throughout his confinement, which continued until March. They availed themselves of this privilege, and always landed for that purpose at the upper end of the town, whence they passed along the street to the other extreme, and where Lieut. King was confined. Thus, they could not avoid discovering the apparent and entire military use of the whole village. At Youngstown, all the houses were turned into barracks, hospitals, or receptacles for munitions of war, in the fall of 1812; besides, there were two batteries, one in the village, the other distant a quarter of a mile from the upper end, and near a warehouse standing between the road and river. Under the foregoing view, this deponent is of opinion that the American army could not preserve itself through the winter, or maintain an effectual hostile attitude on the Niagara frontier, without a recurrence to the essential advantage derived from private houses and property.

This deponent further saith, that he has no interest depending in anywise upon this evidence.

SAMUEL LANE,
Late a Lieut. Col. U. S. Army.

Sworn and subscribed before me,
DANIEL RAPINE.

District of Columbia,
Washington County, } ss.

Benajah Mallory being duly sworn, maketh oath, that, in the winter of 1813–14, he commanded a corps of Canadian volunteers in the service of the United States, on the Niagara frontier; that they formed part of the garrison of Fort George, until the evacuation of that post, about the tenth of December, when, the militia having been mostly discharged, and the town of Newark destroyed, he crossed to the American side of the river, and shortly after received the order of General M'Clure, hereunto annexed, to station his command at Schuyler, and Judge Porter's Mills, near the Falls of Niagara, for the protection of the public and private property in that neighborhood; which he accordingly did, and was joined by a number of inhabitants of that vicinity, who placed themselves under his command.

That on or about the 19th of December, having heard that the enemy had crossed the river, near Lewistown, and were approaching his position, he met them several miles in advance, with the force under his command, and succeeded in repeatedly driving them back; but, being at length overpowered by numbers, he was obliged to fall back to Fort Schuyler, where he made another stand, and suffered severely, until he was on the point of being surrounded and captured by an overwhelming force, when he retired up the river to Buffalo. That on the 23d of December, he was put in command of the forces at Buffalo, by General M'Clure, and continued in command until he was superseded by the arrival of Major General Hall, on the 26th. That he was in the battle of Black Rock, on the morning of the 29th, when the British destroyed the villages of Black Rock and Buffalo.

And this deponent further says, that, for several days before the destruction of the said villages, the whole of that part of the frontier visited by this deponent wore the appearance of a military cantonment; almost every house and other building in the said villages of Black Rock and Buffalo having been put into requisition for barracks or other military purposes, and the inhabitants being obliged either to abandon, or to confine themselves to a very small part of their houses.

And this deponent further says, that part only of the village of Manchester, at the Niagara Falls, was destroyed by the enemy; it being, as this deponent was informed, the order of the commanding British officer to destroy only such buildings as appeared to have been used for military purposes.

B. MALLORY.

Washington City, January, 13, 1817.

Sworn and subscribed to before me, a justice of the peace, date as aforesaid. JAMES H. BLAKE.

Copy of the testimony taken under a commission issued to Charles Townsend and Jonas Williams, and applicable to the case of —.

State of New-York, }
Niagara County, } *ss.*

Augustus C. Fox, of Erie, in the state of Pennsylvania, being duly sworn, saith, that he was a resident of Buffalo, in the county of Niagara and state of New-York, when that place was destroyed by the British, in December, 1813; that, on the morning the enemy captured Buffalo, Cyrenius Chapin, on behalf of the village, went and met the enemy with a flag; that he soon returned with a number of British officers; that this deponent, shortly after this entrance into the village, conversed with the said officers, and inquired of them the terms of the capitulation; that they stated to this deponent, that public property was to be given up, and private property respected; and this deponent further saith, that he soon after left the village; and when he had got about a mile from said village, he discovered the public vessels lying on the beach near to Buffalo village, on fire. And this deponent further saith, that, at the time, and previous to the destruction of Buffalo by the enemy, the place was occupied by troops in the service of the United States; that most of the houses at that time, and many previous to that time, had been used as barracks; that much public property had been deposited in said village; and this deponent further saith, that, from the commencement of the war, to the destruction of Buffalo, the said village had more or less public property deposited therein, and many of the buildings during that time, used as barracks or military deposites; and this deponent further states, that, at the time, and a little previous to the destruction of Buffalo, that private buildings were forcibly, or by threats, taken possession of by the troops in the service of the United States; and this deponent further saith, that, since the destruction of Buffalo, he has heard British officers state, that Buffalo, at the time it was burnt, was a military encampment; and this deponent saith, that he has no interest, directly or indirectly, in any of the claims of the inhabitants of Buffalo, for losses caused by the destruction of Buffalo, as aforesaid; and further saith not.

AUGUSTUS C. FOX.

Sworn to and subscribed, this 2d day of September, 1816, before me,

CH. TOWNSEND.

Bloomfield, June 21st, 1816.

This may certify, that the village of Buffalo was, for several days previous to its being burnt by the enemy (being the 30th of December 1813) made use of as barracks for the New York state militia and volunteers, then in the service of the United States; that I had been in command about three days at Buffalo, previous to its being destroyed, and was at that time commanding officer on the Niagara frontier, and authorized such occupancy; and that I am satisfied, that one principal cause of said village being burnt, was in consequence of its being a military deposite, and occupied as barracks in the service of the United States.

A. HALL.
Late Maj. Gen. State of N. Y. Mil.

State of New York,
Ontario County, } ss.

Be it known, that, on this 29th day of July, in the year one thousand eight hundred and sixteen, before me, the undersigned, personally appeared Amos Hall, Esq. the person who subscribed the within certificate, who, being duly sworn, made oath that the facts, stated in the within certificate, were true.

CH. TOWNSEND,
Commissioner for taking proof of claims.

State of New York,
Niagara County, } ss.

William Hull, being duly sworn, saith, that on the 30th of December, 1813, this deponent was a captain of volunteers in the United States' service, and recruiting officer under orders of the Secretary of War; that a short time previous to that time, being stationed at Buffalo, and commanding a separate corps there, this deponent received orders from the commanding general of the Niagara frontier, dated at Batavia, directing him to take such buildings at Buffalo, for the use and occupation of the troops that were ordered there, as might be necessary; that, pursuant to those orders, he took possession of several buildings, without the knowledge or consent of the owners; that at the time the place was destroyed, and previous thereto, it was generally occupied by troops in the United States' service as barracks; that much public property was deposited therein in many of the houses and other buildings in said village; and he believes there was more property of that description deposited therein;

than in any other place on the Niagara frontier, and was generally considered as a military post in the service of the United States.

WILLIAM HULL.

Sworn to and subscribed, this 2d day of September, 1816, before me,

CH. TOWNSEND.

State of New York,
Niagara County, } ss.

Rowland Cotton, of said county, being duly sworn, saith, that in the month of December, 1813, this deponent was acting aid-de-camp to Timothy S. Hopkins, brigadier general, under command of Major General Amos Hall: that, previous to the destruction of Buffalo and Black Rock, the said General Hopkins commanded this deponent to take possession of any of the buildings situated in the latter village, for the quartering of the troops under his command; that, in pursuance to this order, deponent did take possession of all the buildings which were suitable for the accommodation of said troops; and that the said buildings were so occupied when destroyed by the enemy, on the 30th of December, 1813.

ROWLAND COTTON.

Sworn to, July 25th, 1816, before me.

CH. TOWNSEND.

State of New York,
Niagara County, } ss.

John Lay, jun. of said county, being duly sworn, saith, that he was in the village of Buffalo on the 30th of December, 1816, when that place was captured and destroyed by the British; that, after some resistance on the part of the inhabitants, Colonel Cyrenius Chapin, in their behalf, went with a flag of truce to the head-quarters of the British general, and after some time, returned with information, that he had concluded an agreement with the British general, and that, by which, all property belonging to said inhabitants, and not in the United States' service, was to be respected; that, immediately after that, the British army marched into the village, and this deponent understood, from the officers commanding said army, that such a capitulation had been made, and that private property would not be destroyed; and they apprised him, that one of the stipulations were, that all the spiritous liquor in the village was to be destroyed, in order to prevent the Indians of their army from committing excesses; on which this deponent immediately destroyed about five hundred gallons of liquor belonging to his present copartner in trade, Eli Hart; that centinels and patroles were placed

about the village by the enemy, to cause to be executed the terms of the capitulation, as this deponent understood and verily believed; that, after remaining in the village some time, it was discovered that the buildings generally were occupied as barracks or as deposites for military stores, and an order was given to destroy all such buildings; that, in consequence of such order, the buildings generally, with a few exceptions, were destroyed; that afterwards, on that day, this deponent was taken prisoner, and crossed the Niagara river in company with the general officers of the enemy, and that he heard them observe, that their sole object was to capture and destroy United States' property, of which they had heard large quantities were deposited in Buffalo; that, when they had arrived at Buffalo, finding but few inhabitants, and their buildings principally occupied as barracks for troops, or as military deposites, they had concluded to destroy them, contrary to their original intentions, when they went to our shores; and that the said village was generally considered as a military post, and this deponent verily believes was destroyed in consequence; and further saith not.

JOHN LAY, Jun.

Sworn to and subscribed, this 28th day of August, 1816, before me, CHARLES TOWNSEND.

Washington County,
District of Columbia.

On this 25th day of October, in the year 1816, before me, the subscriber, a justice of the peace, for the county and district aforesaid, personally appeared Peter Odlin, and made oath, in due form of law, that the copies of the depositions above transcribed, are true copies of the originals filed in Richard B. Lee's office, the same having been carefully examined and compared.

JAMES M. VARNUM.

State of New York,
County of Niagara.

Personally appeared before me, Robert Fleming, a justice of the peace in and for said county, and a commissioner for taking evidence respecting the losses sustained by the inhabitants on the Niagara frontier in said state, during the late war, Thomas Dickson, of Queenstown, Esq. a Lieutenant Colonel in the Upper Canada militia, who, being duly sworn, deposeth and saith, that it was generally supposed on the Canadian frontier, that both the villages of Lewiston and Buffalo were occupied as military posts, previous to, and during the month of December, 1813; the deponent having been in Lewiston the beginning of December, 1813, knows it was then a mi-

litary post, as he saw the troops of the United States in it at the time; and on the 19th December, the day on which Fort Niagara was taken by the British, two cannon shot were fired from Lewiston battery into the village of Queenstown, which shot lodged in the bank near the deponent's house, where Captain Cameron of the Provincial Artillery and the deponent were at the time; a few hours afterwards the deponent saw the Indians and British troops in Lewiston, and the most of the houses in said village in flames; the deponent verily believes, that both the villages of Lewiston and Buffalo were military posts of the United States, and under that impression the British Generals gave orders for their destruction.

After the destruction of Buffalo and Black Rock, about the end of December or beginning of January, he was informed by the officers of the 1st regiment of Royal Scots, under the command of Lieut. Col. Gordon, that they had marched down, with orders to scour the American frontier from Buffalo to Fort Niagara, via Manchester and Lewiston, which service the deponent believes they performed, as he saw them march down through Lewiston; the deponent, at the time, understood the orders given, were, to scour the lines, to prevent them from being again occupied by the American troops; the deponent was in Queenstown on the tenth of December, when Niagara, commonly called Newark, was burned by the Americans: that he had no suspicion that any thing of the kind was to take place, though he had been a prisoner with the Americans in Fort Niagara, and was allowed by General McClure to go home to see his family, and Commodore Barclay, who was at deponent's house on the 6th December; the British army advanced on the 11th and 12th December to Queenstown and Fort George; on the 19th December, Fort Niagara was taken and Lewiston burned, and as the commander in chief was at that time in Lower Canada, the deponent believes Fort Niagara was taken, and Lewiston burned, by order of the general commanding in Upper Canada. The deponent further declares, that he has no interest whatever in the claim of any person for remuneration from the Government of the United States for losses sustained during the late war.

THOMAS DICKSON,

J. P. Queenstown, & Lt. Col. Up. Can. Mil.

Sworn before me, at Lewiston, 30th November, 1816.

ROBERT FLEMING, *Justice of Peace.*

District of Niagara, ss.

Isaac Swayze, being duly sworn, doth depose and say, that he has no interest, either directly or indirectly, in the claim of any person or persons, for losses sustained during the late war, on the American frontier; that this deponent commanded his Majesty's Royal Artil-

lery drivers, from June, 1812, until September, 1813; that, during the summer season of 1812, this deponent, for the purpose of drill, passed and repassed to and from Niagara to Queenstown, the road leading along the bank of Niagara river, several times each week, with from eight to ten pieces of artillery; that most of the buildings on the American shore were occupied by American troops, from which buildings the said artillery were, when passing as aforesaid, continually annoyed by fire of the troops so stationed at the said buildings; that, at one time, in particular, the said artillery were fired at, by platoons, from the American side; that this deponent ordered one of the pieces to be prepared for firing on the Americans, but, on reflection, desisted; that this deponent left the Upper for the Lower Province of Canada, in the month of September, 1813, that he attended the session of Parliament, in the winter of 1813 and 1814, in the Upper Province: that he again returned to Montreal, where he, the deponent, had a conversation with Col. Murray, who commanded the British forces that took Fort Niagara, in December, 1813; that Col. Murray then told the deponent that the American frontier was not burned on the ground of retaliation, but was destroyed expressly for the purpose of depriving the United States' army of quarters or barracks, and as places for military deposites; that this deponent well knows, from information and actual observation, that all the buildings along the American frontier, from Buffalo to Fort Niagara, was occupied by the army of the United States, in some way or other, previous to the destruction of the same, in December, 1813; that, in the year 1814, this deponent had a conversation with Lieutenant General Sir Gordon Drummond, who told this deponent, in substance, that the American Niagara frontier was destroyed in consequence of the same having been occupied by the United States' army, during the war, and to prevent its being so occupied hereafter; that the said frontier was not destroyed from a principle of retaliation; that it was beneath the British government to have destroyed the frontier from such motives; that he was convinced General McClure destroyed Newark without the order of the Government, but that the only motive in destroying the said frontier, was, because the buildings had been occupied by the United States, and to prevent the same army from again occupying the same; that this deponent, on the eighteenth of December, 1813, had a conversation with Sir George Prevost at Quebec, in the province of Lower Canada; he observed to this deponent, that he had received information that Newark, in Upper Canada, had been burned by the American force; that this deponent suggested the plan of destroying the American frontier in retaliation, to which Sir George promptly replied, "No, Captain Swayze; no retaliation shall take place while I am in command;" that this deponent, as well as most other officers in his Majesty's service, had, for a long time previous to December, 1813, intended to burn the buildings on the American side of the river, to prevent their having a harbor or barrack so near the British army, from which they experienced a continual annoyance; that the orders given by the British generals

commanding on the Niagara frontier were generally verbal; this deponent was in service about one and a half year, and in that time only received two written orders; that there was no written order, as this deponent believes, for destroying the American frontier; but this deponent believes the same was verbal.

ISAAC SWAYZE,
Captain R. A. D.

Sworn to and subscribed, this 27th November, 1816, before me.
ROBERT FLEMING,
Justice of the Peace.

I, William H. Merritt, late captain of the provincial light dragoons, passed over with a flag to the American side of the Niagara river. I passed along the streets of Lewistown, and observed that troops or military stores, were in the houses, which I particularly remarked through the village of Lewistown: wherever I went this observation was repeated. This event occurred a few days previous to the crossing of the British army to the American shore; whose movement over was, in my opinion, accelerated in consequence of this observation. It was known to us, that the Niagara line was a military depot for the American army, a long time before its destruction. I have no interest depending on any decision which may be affected by this evidence.

WM. H. MERRITT,
Late Capt. Prov. Light Dragoons.

Sworn to and subscribed, this 27th day of November, 1816, before me,
ROBERT FLEMING,
Justice of the Peace.

I was a prisoner with the American army, and had my release on parole a week before the destruction of Buffalo: I was marched from Fort Niagara to Lewistown some days before the fort was taken. I only entered one house from Niagara to Lewistown. At Lewistown I entered many of the houses, and saw troops in all those I observed, together with their ordnance and equipments. From Lewistown to Buffalo, through Schlosser and Black Rock, all the houses I observed, and remarked the greatest number of them were filled with troops. At Buffalo, I was put in the house of E. Ranson, the two lower rooms of which were occupied by troops; and from the noise above, I believe the upper apartments were converted to the same use. It is my impression, from what I saw, that the whole of the houses were occupied by the United States' troops. This military occupation of private houses and property was generally known or believed, by Ge-

neral Drummond and the British army. General Drummond, acting under this opinion, crossed over from Lewistown to Canada, and marched up to Buffaloe on the Canada side, not knowing what ambush might be planned against him from the houses under military occupation on the other side. The tenor of the order given, in relation to such houses, I have always understood, required the destruction of those which offered any mark of a previous conversion to a military use. At any period of the war, subsequent to the military occupation of the Niagara, I was of opinion the same destruction would have taken place, had an opportunity been presented for committing it. A proposition to this effect I have frequently heard suggested, by many officers of respectable rank in the regular service. I was, at that time, and am at present, a captain of provincial militia. I have no interest whatever depending on the decision that may be made on this evidence. WM. LYONS.

Sworn to and subscribed, this 24th day of November, 1815, before me, ROBERT FLEMING,
Justice of Peace.

State of New York,
Niagara County.

Alexander Cameron, of Niagara, in the district of Niagara, late a captain of a company of incorporated militia artillery in the province of Upper Canada, being duly sworn, maketh oath and saith, that he has no claim, directly or indirectly, in the claim of any person or persons on the American Niagara frontier, for losses sustained during the late war; that he was in command of the artillery in the British service employed in the destruction of the village of Lewistown; was present at the same, and doth verily believe, and at the time understood, in common with the officers of the British army, that such destruction of the said village was in consequence of orders issued by the commanding general of the British forces on the frontier to Major General Philip Rial, in command of the British forces, who crossed the Niagara river for the capture of the fort of Niagara, and the destruction of Lewistown; that the said General Rial was present at the destruction of Lewistown; and that the deponent, by order of the Major General, effected the destruction of Fort Gray. That he, this deponent, verily believes, that a primary motive for the destruction of Lewistown, Black Rock, Buffalo, and the houses on the Niagara river between those places, was to prevent their re-occupation by the armies of the United States, and that it was so understood by the army of his majesty in general employed in that expedition.

ALEXANDER CAMERON,
Late Capt. Incor. Mil. Artillery.

Sworn to and subscribed, this 10th day of November, 1816, before me, ROBERT FLEMING,
Justice of Peace.

I, Adam Brown, lieutenant in the first regiment of Lincoln militia, in Upper Canada, certify, that I lived on the Niagara frontier the whole period of the late war, except a short time that the British forces retreated therefrom; that I, as well as the officers of the army generally, knew that the buildings on the Niagara frontier were occupied by the forces of the United States, from the commencement of the late war, until the destruction of them in December, 1813; that I crossed with the army, and proceeded down the river to Youngstown, and from thence returned, and advanced upon Lewistown; that on the route, all the buildings appeared to have been occupied by the American army; that the buildings of Mrs. Grearsit, at Youngstown, and others, were occupied at that time as hospitals; that, at Lewistown, the house of Joshua Fairbanks, particularly, and the others generally, contained military stores, or had been used there recently as barracks; that I understood the buildings on the Niagara frontier were destroyed because they had been occupied by the army of the United States, as well as to prevent the same being further occupied. I also certify, that I have no interest in the claim of any person on the American Niagara frontier, for losses sustained during the late war.

ADAM BROWN,
Lt. 1st Regt. Lincoln Militia.

Sworn to and subscribed, this 27th day of November, 1816, before me,
ROBERT FLEMING,
Justice of Peace.

I, James Secord, of Queenstown, merchant, have had frequent conversation with General Rial, Col. Drummond, Col. Gordon, and Col. Ogilvie, and have often heard the intention expressed among them, by which, in particular, I cannot designate, to cross over to the American shore soon; that there they would burn and destroy every thing which they should discover had been, or might be, of use to the American army, which depended for quarters on the houses on the New York side of the Niagara. By so doing, they said, they would prevent the American army from continuing in its harbor for another year. I have no interest that can be affected by this evidence.

J. SECORD.

Sworn to and subscribed, this 28th day of November, 1816, before me,
ROBERT FLEMING,
Com'r and J. P.

I, Peter M'Dougal, of Newark, merchant, was one of the corps which crossed over to the Five Mile Meadow, and advanced to Lewistown. I remarked that the houses, from the place of our landing

to and at Lewistown, had stores for troops and munitions of war in them, or appeared at the time under the occupancy of the American army. The orders, under which we acted, were general; they proceeded from General Rial; and required that the houses should be burnt, on account of the use made of them by the United States' troops, either as barracks, storehouses, or a deposite for ammunition and implements of war. The order was general, to prevent their similar use in future. This order was generally understood, and I believe it would have been issued at any period of the war, after we had ascertained that the New York side of Niagara river afforded quarters for the American army, which, destitute of regular barracks, depended for their accommodation on private houses. I have no interest that can be affected by this evidence which I have given.

PETER M'DOUGAL.

Sworn and subscribed, this 26th of November, 1816.

ROBERT FLEMING,
Com'r and J. P.

Message from the President of the United States, transmitting a Correspondence between Admiral Cochrane and the Secretary of State, in relation to an order of the former to destroy and lay waste the towns on the Coasts of the United States.

TO THE SENATE AND HOUSE OF
REPRESENTATIVES OF THE UNITED STATES:

I transmit to Congress, for their information, copies of a letter from Admiral Cochrane, commanding his Britannic Majesty's naval forces on the American station, to the Secretary of State, with his answer, and of a reply from Admiral Cochrane.

JAMES MADISON.

September 26th, 1814.

CORRESPONDENCE.

Vice Admiral Cochrane to Mr. Monroe.

HIS BRITANNIC MAJESTY'S SHIP THE TONNANT,
In the Patuxent River, 18*th August*, 1814.

SIR: Having been called upon by the Governor General of the Canadas, to aid him in carrying into effect measures of retaliation against the inhabitants of the United States, for the wanton destruction committed by their army in Upper Canada, it has become imperiously my

duty, conformably with the nature of the Governor General's application, to issue to the naval force, under my command, an order to destroy and lay waste such towns and districts upon the coast, as may be found assailable.

I had hoped that this contest would have terminated without my being obliged to resort to severities which are contrary to the usage of civilized warfare; and as it has been with extreme reluctance and concern that I have found myself compelled to adopt this system of devastation, I shall be equally gratified if the conduct of the Executive of the United States will authorize my staying such proceedings, by making reparation to the suffering inhabitants of Upper Canada, thereby manifesting that, if the destructive measures, pursued by their army, were ever authorized, they will no longer be permitted by the Government.

I have the honor to be,
With much consideration,
Your most obedient humble servant,
ALEX'R. COCHRANE,
Vice Admiral and Commander in Chief of his Britannic Majesty's Ships and Vessels upon the North American station.

To the Hon. JAMES MONROE,
Secretary of State, &c. Washington.

Mr. Monroe to Vice Admiral Cochrane.

DEPARTMENT OF STATE,
September 6, 1814.

SIR: I have had the honor to receive your letter of the 18th of August, stating that, having been called on by the Governor General of the Canadas, to aid him in carrying into effect measures of retaliation against the inhabitants of the United States, for the wanton desolation committed by their army, in Upper Canada, it has become your duty, conformably with the nature of the Governor General's application, to issue, to the naval force under your command, an order to destroy and lay waste, such towns and districts upon the coast, as may be found assailable.

It is seen, with the greatest surprize, that this system of devastation, which has been practised by the British forces, so manifestly contrary to the usage of civilized warfare, is placed, by you, on the ground of retaliation. No sooner were the United States compelled to resort to war against Great Britain, than they resolved to wage it in a manner most consonant to the principles of humanity, and to those friendly relations which it was desirable to preserve between the two nations, after the restoration of peace. They perceived, however, with the deepest regret, that a spirit, alike just and humane, was neither

cherished nor acted on by your Government. Such an assertion would not be hazarded, if it was not supported by facts, the proof of which has, perhaps, already carried the same conviction to other nations that it has to the people of these states. Without dwelling on the deplorable cruelties committed by the savages in the British ranks, and in the British pay, on American prisoners at the River Raisin, which, to this day, have never been disavowed or atoned for, I refer, as more immediately connected with the subject of your letter, to the wanton desolation that was committed at Havre de Grace and Georgetown, early in the spring, 1813. These villages were burnt and ravaged by the naval forces of Great Britain, to the ruin of their unarmed inhabitants, who saw, with astonishment, that they derived no protection to their property from the laws of war. During the same season, scenes of invasion and pillage, carried on under the same authority, were witnessed all along the waters of the Chesapeake, to an extent inflicting the most serious private distress, and under circumstances that justified the suspicion, that revenge and cupidity, rather than the manly motives that should dictate the hostility of a high minded foe, led to their perpetration. The late destruction of the houses of the Government, in this city, is another act which comes necessarily into view. In the wars of modern Europe, no examples of the kind, even among nations the most hostile to each other, can be traced. In the course of ten years past, the capitals of the principal powers of the continent of Europe have been conquered, and occupied, alternately, by the victorious armies of each other, and no instance of such wanton and unjustifiable destruction has been seen. We must go back to distant and barbarous ages, to find a parallel for the acts of which I complain.

Although these acts of desolation invited, if they did not impose, on the Government, the necessity of retaliation, yet, in no instance, has it been authorized. The burning of the village of Newark, in Upper Canada, posterior to the early outrages above enumerated, was not executed on that principle. The village of Newark adjoined Fort George, and its destruction was justified by the officer who ordered it, on the ground that it became necessary in the military operations there. The act, however, was disavowed by the Government. The burning which took place at Long Point, was unauthorized by the Government, and the conduct of the officer subjected to the investigation of a military tribunal. For the burning at St. Mary's, committed by stragglers, the officer who commanded, in that quarter, was dismissed, without a trial, for not preventing it.

I am commanded, by the President, distinctly to state, that it as little comports with any orders which have been issued to the military and naval commanders of the United States, as it does with the established and known humanity of the American nation, to pursue a system, which, it appears, you have adopted. This Government owes it to itself, to the principles which it has ever held sacred, to disavow, as justly chargeable to it, any such wanton, cruel, and unjustifiable warfare.

Whatever unauthorized irregularity may have been committed by

any of its troops, it would have been ready, acting on these principles of sacred and eternal obligation, to disavow, and, as far as might be practicable, to repair. But, in the plan of desolating warfare, which your letter so explicitly makes known, and which is attempted to be excused, on a plea so utterly groundless, the President perceives a spirit of deep rooted hostility, which, without the evidence of such facts, he could not have believed existed, or would have been carried to such an extremity.

For the reparation of injuries, of whatever nature they may be, not sanctioned by the law of nations, which the military or naval force of either power may have committed against the other, this Government will always be ready to enter into reciprocal arrangements. It is presumed that your Government will neither expect, nor propose any, which are not reciprocal.

Should your Government adhere to a system of desolation, so contrary to the views and practice of the United States; so revolting to humanity, and repugnant to the sentiment and usages of the civilized world, whilst it will be seen, with the deepest regret, it must, and will be, met with a determination and constancy becoming a free people, contending, in a just cause, for their essential rights, and their dearest interests.

I have the honor to be,

With great consideration, sir,

Your most obedient servant,

JAMES MONROE.

Vice Admiral Sir ALEXANDER COCHRANE, &c.

Vice Admiral Sir Alexander Cochrane to Mr. Monroe.

HIS BRITANNIC MAJESTY'S SHIP TONNANT,
In the Chesapeake, 19*th September,* 1814.

SIR: I had the honor to receive your letter, of the 6th instant, this morning, in reply to the one which I addressed to you, from the Patuxent.

As I have no authority, from my Government, to enter upon any kind of discussion relative to the points contained in your letter, I have only to regret, that there does not appear to be any hope that I shall be authorized to recall my general order, which has been further sanctioned by a subsequent request from Lieutenant General Sir George Prevost.

A copy of your letter will this day be forwarded, by me, to England; and, until I receive instructions from my Government, the measures which I have adopted must be persisted in, unless remuneration

be made to the inhabitants of the Canadas for the injuries they have sustained from the outrages committed by the troops of the United States.

I have the honor to be, sir,

With much consideration,

Your most obedient and very humble servant,

ALEX. COCHRANE,

Vice Admiral and Commander in Chief of his Britannic Majesty's Ships and Vessels upon the North American Station.

The Hon. JAMES MONROE,
Secretary of State, &c.

[*To be annexed to Report No.* 1.]

DOCUMENTS

CONNECTED WITH THE

Claim of the sufferers, during the late War,

ON THE NIAGARA FRONTIER.

JANUARY 13, 1825.

Printed by order of the House of Representatives.

No. 1.

STATE OF NEW YORK, } ss.
Niagara County,

Be it remembered, that, on the 17th day of July, 1817, personally appeared before me, the subscriber, one of the Judges of the Court of Common Pleas in and for the said county of Niagara, and state aforesaid, Oliver C. Comstock, Esq. one of the Commissioners appointed by Richard Bland Lee, Esq. to take testimony relative to the claims of the sufferers in the late war between the United States and Great Britain, and being duly affirmed, did declare that he would faithfully and impartially execute the duties assigned to him, in the said commission to him for that purpose, to the best of his judgment.

O. C. COMSTOCK.

Subscribed and affirmed before me, this 17th day of July, 1817.

CH. TOWNSEND,
One of the Judges of Niagara Common Pleas.

No. 2.

STATE OF NEW YORK, } ss.
Niagara County,

Be it remembered, that, on the 17th day of July, 1817, personally appeared before me, the subscriber, one of the Judges of the Court

of Common Pleas, in and for the county of Niagara, and state of New York, Archibald S. Clark, Robert W. Stoddard, commissioners appointed by Richard Bland Lee, Esquire, to take testimony relative to the claims of the sufferers in the late war between the United States and Great Britain, on the Niagara frontier, and did, respectively swear, that they and each of them would faithfully and impartially execute the duties assigned to them, in the commission to them for that purpose, to the best of their judgment.

ARCHIBALD S. CLARKE,
R. W. STODDARD.

Sworn and subscribed this 17th day of July, 1817.

CH. TOWNSEND,

One of the Judges of the Court of Common Pleas of Niagara County.

No. 3.

BUFFALO, 1*st August*, 1817.

GENTLEMEN: We think proper to state to you, that, in forming an estimate of the value of buildings destroyed by the enemy in the late war, at Buffalo, we have inquired into the prices of materials for building, and the wages of mechanics prior to the late war, and subsequent to the declaration of peace, and find the within statement to be a fair average of the prices of materials and wages, and that our valuation of buildings has been predicated upon the within calculation.

We further remark, that we have in every case heard evidence as to the size, finish, style, and age of the buildings, and have made a reasonable deduction for the decay of buildings, and value of materials remaining after the conflagration.

J. KIBBE.
ELIJAH HOLT.
JOSEPH STOCKING.
WM. DONINGTON.
ROWLAND COTTON.
WM. MURRAY.
JONA. R. BROWN.

To the Commissioner of Claims,
and the United States' Agent.

No. 4.

GENEVA, *December* 2, 1817.

SIR: I have examined the annexed report and digest of the testimony taken before the Commissioners appointed to collect testimony relative to the sufferers on the Niagara frontier, and compared the same with the minutes of the examination kept by me, and find the same correctly and properly reported.

I have the honor to be,
Very respectfully,
Your obed't servant,
JACOB DOX,
Agent for the United States.

To RICHARD BLAND LEE, Esq.

No. 5.

GENEVA, *December* 2, 1817.

SIR: On receiving your commission authorizing us to collect testimony in behalf of the sufferers on the Niagara frontier, in the late war, we gave proper notice to Mr. Dox, agent on the part of the United States, and, after taking the oath required by law, commenced the investigation of the claims of the sufferers at Buffalo, Black Rock, and their vicinities.

The result of our labor may be seen in the annexed digest, and in the records of vouchers and testimony produced in support of each claim. The examination of the witnesses was public, and always in the presence of the agent, Mr. Dox, and when reduced to writing, was read to each witness, in order to the correction of any errors which might have been committed by us or by the witness himself. The testimony, after such corrections were made, was engrossed in the form of a deposition, sworn to and subscribed by the witness, certified by us and by Mr. Dox.

In ascertaining the value of houses and buildings destroyed, we found it expedient to establish a board of seven appraisers, composed of master builders, masons, and men of active business, and on whose judgment and candor we could rely for a just valuation of property of that nature. The appraisers are men of highly respectable characters, and, with one exception, wholly and entirely unconnected with any claim upon Government for losses sustained in the late war. The nature of the inquiry convinced us of the necessity of having a majority of appraisers, who were not inhabitants of the village prior to its destruction by the enemy, and it was equally necessary that some of them should be selected from the village and its vicinity, in order to obtain the requisite information as to the nature of the build-

ing for which compensation was demanded. We, therefore, selected General Holt and Major Cotton, who have resided within four or five miles of the village for many years prior to its destruction, and Mr. Stocking, who had been a citizen of the village for a long time before the war.

Mr. Kibbe and the master builders and masons have, very recently, become citizens of the place, and are men of business, and maintain such respectable characters and reputation, as to claim our utmost confidence.

Before the appraisers commencenced their investigation, they spent considerable time to ascertain and make a scale of the average prices of lumber and other materials, the wages of mechanics and laborers, with other incidental charges attending the erecting of buildings. At the close of their labors, the board of appraisers addressed to us the annexed letter, stating, in a summary manner, the principles on which they predicated their appraisals, with a scale of the average prices of materials, wages, &c. and to which, for your better satisfaction, we beg leave to refer.

That the calculation of the appraisers might be made from as correct a data as possible, we required of the claimant a description in writing for which he claimed to be remunerated, stating the size, the number of rooms, the style and manner of construction, and the degree of finish, &c. but without any estimate or intimation of the value thereof. This description, after being sworn to by the claimant, and its accuracy proved to our satisfaction, was handed to the appraisers, and, from that and other testimony, they made their calculations, and reported the valuation of the buildings under oath to us, which report is subjoined to the record of testimony in each claim.

The descriptions form a very large mass of papers, which we have arranged in the best order that circumstances would admit of, and presuming you might wish to examine them, they are herewith transmitted to you, with a suitable index, to enable a recurrence to them with perfect facility. In the course of your examination of the records, &c. you will perceive many instances where the buildings are as minutely described in the statement of the claim as they are in the descriptions laid before the appraisers, and in every instance the statement of the claim contains the claimant's own estimate of the value of his buildings.

The claims for furniture and other personal property destroyed in dwellings and other buildings are, in most instances, stated in a precise and careful manner, in a schedule attached to each record; such of the items charged as the claimant was able to prove to our satisfaction, are designated by an appropriate marginal reference, made on the schedule, and to which the witnesses refer in their deposition. When it is recollected that the destruction of Buffalo was sudden, and scarcely to be apprehended when the event took place, and consequently, very few individuals could obtain the means of removing their effects, it will not be matter of astonishment to you that each claimant should present a long list of personal property and effects

destroyed with his residence; such articles, however, as the claimant hath not satisfactorily proved to have been destroyed, you will perceive we have expunged from the amount charged in the claim.

As our inquiries were solely directed to cases arising under the ninth section of the claims' law, we have been careful to avoid investigating any case, where, from circumstances, or other satisfactory evidence, it appeared to us the claim for personal effects was not connected with the destruction of a building, either owned by the claimant, or rented by him as a residence, or place of permanent business. Sutlers and followers of the army have uniformly been turned aside by us, under the fullest impression that the 9th section of the law under which we acted did not provide for them.

We assure you, sir, that our investigations have been as strict and as minute as circumstances would admit; and we sincerely believe that the amount of property destroyed by the enemy at Buffalo, Black Rock, and their vicinities, is as clearly and fairly ascertained as the nature of the case will admit.

We have the honor to be, sir,

Your obedient servants,

R. W. STODDARD,
ARCHD. S. CLARKE,
O. C. COMSTOCK.

RICHARD BLAND LEE, Esq.
Commissioner of Claims, &c.

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